

OGC 76-5678

14 October 1976

OGC Has Reviewed

MEMORANDUM FOR: Director of Personnel

STATINTL FROM :
Office of General Counsel

STATINTL ATTENTION :

SUBJECT : Review of Authority for Staffing Employee
Activity Functions

1. Factual Situation: The Chief of the Audit Staff, Office of Inspector General, recommended in his Report of Audit, dated 5 May 1976, that the Director of Personnel solicit the opinion of General Counsel concerning the Agency's legal authority to assign five employees, paid from appropriated funds, to the EAA coordinator function and the physical fitness room. The staff assigned to the EAA coordinator function consists of two administrative and two clerical employees. It is their duty to coordinate the sports, social and other activities of the EAA in order to ensure that all Agency cover and personnel security requirements are met in employee group relationships with non-Agency persons and organizations. The staff assigned to the physical fitness room consists of only one employee whose duty it is to supervise the activities in the room and to maintain the equipment installed in the room. The Director of Personnel has requested an Opinion of General Counsel reviewing and establishing the legal authority for staffing the above-described employee activities.

2. Issue Presented: May the Director of Personnel legally authorize the assignment of Agency personnel paid from appropriated funds to the EAA coordinator function and the physical fitness room?

3. Conclusion: Yes. Appropriated funds may be used to pay Agency personnel assigned to the EAA coordinator function and the physical fitness room, based upon the unique security requirements of the Agency and the direct relationship between physical fitness and the duties assigned to Agency personnel.

4. The Use of Appropriated Funds for Purely Recreational Activities: It is provided in 31 U.S.C.A. section 628 that appropriated funds can be used for no other purpose than that for which they were appropriated.

Except as otherwise provided by law, funds appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others.

This statute has been traditionally interpreted to proscribe the use of appropriated funds for recreational activities. The landmark decision in this regard is found at 18 Comp. Gen. 147 (A-96933, 10 August 1938) in a memorandum to the Secretary of War concerning recreational facilities of Midway Island. There it was stated:

While the furnishing of recreational facilities may be highly desirable, particularly in a place such as referred to in your letter, they constitute expenses which are personal to the employees and which are not permitted to be furnished from appropriated funds unless provided in the appropriation either specifically or by necessary implication. Id. at 147.

See also B-49169 (5 May 1945, unpublished) and B-37344 (14 October 1943, unpublished).

It was subsequently held at 27 Comp. Gen. 679 (B-73234, 12 May 1948) that the prohibition applied to personnel as well as facilities. In that case the Comptroller General refused to permit:

...The employment of personnel, to be paid from appropriated funds, to plan and to administer recreational and entertainment programs. Id. at 681.

It is therefore quite clear that appropriated funds cannot be used for purely recreational activities.

5. The Use of Appropriated Funds for Non-Specified but Essential Activities: Although appropriated funds cannot be used for purely recreational activities, the more modern and enlightened view is that physical fitness activities may be supported through the use of appropriated funds where such expenditure is essential to the mission for which the funds were appropriated. This policy was established in 27 Comp. Gen. 679, supra. That decision, although holding that appropriated funds could not be expended for purely recreational activities, went on to state quite significantly as follows:

It may be stated as a general rule that the use of appropriated funds for objects not specifically set forth in the appropriation act but having a direct connection with and essential to the carrying out of the purposes for which the funds were appropriated is authorized. Id. at 681.

This policy blossomed into full flower in 51 Comp. Gen. 797 (B-86148, 6 June 1972), overruling and reversing B-86148, 8 November 1950. This decision has subsequently been cited with approval in the most recent decisions of 55 Comp. Gen. 307; B-185591 (5 May 1976); and B-130082 (20 July 1976). This decision approved the use of appropriated funds for incentive-type MUZAK music. The decision stated:

Also, it was pointed out that a large number of private industries used incentive music thereby indicating that such firms must have found that the music resulted in increased production and reduced costs. Upon re-examination of our earlier decision we now are inclined to agree that the considerations in that case presented a reasonable basis for the administrative view that expenditures for incentive music constituted 'necessary expenses' under the appropriation there involved. Accordingly, since the Commissioner [Bureau of Public Debt] has determined that--based on factors such as the improvement of employee morale, increased employee productivity and resulting savings to the government--the proposed expenditures constitute 'necessary expenses' of the Bureau, we will not now question such a determination. Id. at 798-9.

If music can be adjudged a necessary expense associated with an appropriation, then most certainly can the EAA coordinator function and the physical fitness room be similarly adjudged.

6. The EAA Coordinator Function and the Physical Fitness Room as Essential to the Mission of the CIA: On several occasions it has been administratively determined within the Agency that the EAA coordinator function and the physical fitness room are necessary to the effective functioning of the CIA. In a Memorandum from General Counsel Lawrence R. Houston to the ADDA, Dated 16 November 1951 and entitled, "Use of Appropriated Funds for Recreational Activities," Mr. Houston stated:

...Justification for this Agency to expend funds for this purpose [recreational equipment or supervision] must be based upon unique operations, which could take us out of the purview of the decisions. Security considerations are the most likely

justification. Another factor supporting such an expenditure would be the need for physical fitness in the particular duties for which the personnel were slated.

A Memorandum from the Director of Personnel Emmett D. Echols to the DDS, dated 16 March 1962, similarly found a need for such facilities.

We have found that security considerations are apt to inhibit many of our employees from normal participation in outside community affairs. The Agency should fill this void by making it possible for people to pursue their interests 'within the family' where security restrictions can be relaxed.

Similar administrative determinations have been made by the Director of Personnel (1976) and the Deputy Director for Support (1967).

In light of the need to justify these expenditures, the following considerations appear to be overriding:

a. Security Considerations--

- (1) The protection of cover for Agency personnel.
- (2) The prevention of identification of Agency personnel.
- (3) The protection of Agency personnel.
- (4) The supervision of outside employee contacts.

b. The need for physical fitness in employees' job performance.

c. The improvement of employee morale.

d. Increased employee productivity and resulting savings to the Government.

e. An administrative determination that the expense is necessary for Agency functions by the Director of Personnel (1976), the Director of Personnel (1962), the Deputy Director for Support (1967), and the General Counsel (1951). Although a similar determination by the DCI or the DDCI might be helpful in firmly establishing the propriety of the expenditure, such an additional determination is not required.

f. A finding that physical fitness, increased employee productivity, and the protection of Agency personnel are directly connected with and essential to the purposes for which Agency funds are appropriated.

g. Provisions for employee security and physical fitness are a necessary implication of the CIA appropriation statutes.

h. Provisions for employee security and physical fitness are a "necessary expense." 51 Comp. Gen. 797.

7. The Authority of the DCI to Authorize the Use of Appropriated Funds for Necessary Purposes: The DCI has been authorized by several statutes and Executive Orders to expend appropriated funds for the purposes covered in this Opinion; that is, for the protection of Agency personnel, the maintenance of proper security, and the physical preparedness of Agency personnel. Executive Order 11905, section 4(b)(8) states that:

...the Central Intelligence Agency shall: ...protect the security of its installations, activities, information and personnel.



It may therefore be stated that security and personnel requirements require the continued use of appropriated funds for the EAA coordinator function and the physical fitness room.



STATINTL

FOIAB5

If you concur in our bulletin
and questionnaire, we will request
publication on an expedite basis.

STATINTL

BIEH

[redacted]

STATINTL

cc: [redacted]

STATINTL

Distribution:

Orig - [redacted], OGC

1 - DD/Pers

1 - C/BSD subj file

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cc - As noted above

STATINTL

OP/BSD/[redacted] gec (21 Oct 76)

DD/A Registry
76-5239

Survey of Interest in Facilities for Physical
Conditioning, Recreational and Social Activities

Chief, Benefits and Services
Division, OP
5 E 56, Headquarters

DD/A Registry

File

Personnel 11

21 October 1976

STATOTHR

DD/Pers/SP

21 OCT 1976

15/2A

To 3:

DD/Pers

21 OCT 1976

15/ BDF

STATINTL

Assistant to DDCI
7E 31, Headquarters

w/note added:

George: Let me have your
reaction soon so we can
move this --

STATINTL

We asked the OP Plans Staff to review the first draft of our recreational facilities questionnaire and they in turn discussed it with the Psychological Services Staff. Both of these offices worked on the attitude survey and are in a good position to provide professional guidance. Their suggestions have been incorporated in the attached revision together with the points that you and Gary made.

Concern was expressed regarding the adverse effect on employee morale that would result from raising expectations of facilities that might not be provided. The employee bulletin includes additional details intended to overcome this possibility.

We have broadened the original recreational facilities concept to include physical conditioning in the event that we could justify some expenditures from appropriated funds to prepare our employees physically to perform their jobs. Provision has been made for possible family participation and for consideration of the interests of individuals assigned to buildings other than Headquarters.

Also attached is a copy of a recent OGC opinion that should help free some EAA funds for facilities.

(over)

DRAFT EMPLOYEE BULLETIN

SURVEY OF INTEREST IN FACILITIES FOR PHYSICAL
CONDITIONING, RECREATIONAL AND SOCIAL ACTIVITIES

1. The Agency has a strong and continuing interest in the physical conditioning of its employees and in providing opportunities for recreational and social activities that are commensurate with security and cover requirements. This has resulted in the provision of physical fitness facilities wherever possible and in the strong management support that is provided to the Employee Activities Association (EAA).

2. While the use of appropriated funds is restricted in these areas and EAA's resources are limited, we want to ensure that every effort is made to provide the best possible program within available resources. A review of other Federal civilian agencies has been made to determine their success in this regard and the facilities being provided to their employees. This review indicates that our program ranks very high; however, there is always room for improvement.

3. Even during the early planning stages for our Headquarters Building, consideration was given to the possibility of providing a nearby multi-purpose physical conditioning, recreation and social center for employees and possibly their families. It was not feasible to carry through those plans for a variety of reasons. One of the major factors was a lack of sufficient private capital and that continues to be a significant problem today.

4. Before giving any further consideration to this matter, there is a need to determine the current interest and preferences of Agency employees. Would a multi-purpose center near the Headquarters Building have sufficient appeal to pursue further? If so, what should it contain? Would employees be willing to participate and provide financial support? If not, are there smaller single or dual purpose facilities that are desired and can be supported? Where should they be located?

5. In order to find the answers to some of these questions, the attached survey questionnaire has been prepared. The interest or lack of interest on the part of each employee will be essential to future decisions that are made on this matter. This is your opportunity to express your personal preferences. Please mark your answers to the survey questions, add any comments you would like to make, fold and staple the survey and place in the office mail to the address indicated on the back of the survey form. Your name is not required. The form should be returned no later than 1 December 1976 in order to be considered in the survey..

DISTRIBUTION: ALL EMPLOYEES

1. I believe that an Agency multi-purpose center in the Headquarters Building area -

- ☐ Is urgently needed and would contribute greatly to the morale of employees
- ☐ Would be nice to have and would help improve employee morale to some degree
- ☐ Is unnecessary and would have no influence on employee morale
- ☐ No opinion

2. Regarding eligibility to use an Agency center or individual facilities, I would -

- ☐ Prefer that it be restricted to Agency personnel
- ☐ Prefer that it be restricted to Agency personnel and members of their immediate family
- ☐ Prefer having the opportunity to bring in outside guests
- ☐ No preference

3. If a center or individual facilities were available, I -

- ☐ Would make frequent use of the facilities
- ☐ Would occasionally use the facilities
- ☐ Would rely primarily on other facilities
- ☐ Am not sure how often I would use them

4. If family participation were provided, my family

- ☐ Would make frequent use of the facilities
- ☐ Would occasionally use the facilities
- ☐ Would rely primarily on other facilities
- ☐ Am not sure how often family would use them
- ☐ Not applicable

5. Family participation would be by -

☐ Spouse

☐ Children - specify number by age group

_____ under 6

_____ 7-10

_____ 11-14

_____ 15 and over

☐ Other - indicate number _____

☐ Not applicable

6. I would use the center or facilities during -

☐ 0600 to 0800 hours

☐ 0800 to 1600 hours

☐ 1600 to 1800 hours

☐ After 1800 hours

☐ Weekends

7. The types of facilities I would find most beneficial are -

- ☐ Indoor athletic
- ☐ Outdoor athletic
- ☐ Social (meeting and party rooms)
- ☐ Dining facilities
- ☐ No preference

Indicate location, if other than Headquarters Building area

8. Please indicate the three activities most wanted by you.
(Indicate your order of preference by writing 1st, 2nd, and 3rd) -

- | | |
|--|---|
| <input type="checkbox"/> Bowling | <input type="checkbox"/> Golf driving range |
| <input type="checkbox"/> Billiards | <input type="checkbox"/> Softball |
| <input type="checkbox"/> Tennis | <input type="checkbox"/> Football |
| <input type="checkbox"/> Swimming, indoor | <input type="checkbox"/> Shuffleboard |
| <input type="checkbox"/> Swimming, outdoor | <input type="checkbox"/> Social or game rooms |
| <input type="checkbox"/> Dining | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Meeting rooms & lounges | |

9. If individual facilities such as tennis courts, bowling alleys or swimming pools were made available, I would prefer that payment for their use be on the basis of -

- ☐ () Fee per individual use
- ☐ () General membership dues permitting unlimited use of all facilities
- ☐ () Combination of "use fee" and "general dues"
- ☐ () No preference

10. Regarding financial support of an Agency center, I would be willing to invest the following in shares -

- ☐ () \$ _____
- ☐ () \$25
- ☐ () \$50
- ☐ () \$100

11. In addition to shares, I would be willing to pay annual dues
of -

Family

() \$ _____

() \$25

() \$50

() \$100

Self-Only

() \$ _____

() \$25

() \$50

() \$100

12. Please indicate below any comments or suggestions you may have
on this matter:

Recreational Facilities Study

1. At the request of the DDCI we have conducted a study of the recreational facilities used by other civilian agencies and the methods by which they acquired them. In the course of our study we visited Agriculture, FBI, Interior, NSA, State and NASA. This memorandum contains a report of our findings.

2. We did not find evidence in any of our discussions of civilian agencies or their employee associations actually providing recreational facilities solely for the relaxation and enjoyment of employees or association members. There were no officers clubs, golf courses, tennis courts or swimming pools operated by these organizations. In most cases provision is made for clubs and teams to be organized and arrangements made for the use of offices for meetings and local community athletic fields, gymnasiums, bowling alleys, etc. for sports activities. The nearest that anyone came to having their own recreational facilities were the extensive plans made at NSA in the early 1970's for a 3 1/2 million dollar building. They were unable to obtain necessary backing from DOD non-appropriated funds and a survey of NSA employees indicated that only 40 were willing to invest \$500 in a share of the facility.

3. The lack of recreational facilities is a result of the legal obstacles involved. When this matter was explored by OP in 1959, OGC provided the following comments:

"In general, the use of appropriated funds for employee organizations, unless expressly authorized in the Appropriation Act, is restricted by 31 USC 628 which provides: 'Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they were respectively made, and for no others.' In a series of decisions the Comptroller General, on the basis of 31 USC 628, has denied the expenditure of funds for the purchase or rental of recreational property or the payment of services relating to recreational supervision. The use of funds for those purposes has been denied in spite of the dearth of such facilities at the employee's base, or the effect on the morale of employees in the absence of such facilities."

These obstacles have been partially overcome in the case of gymnasiums and/or physical fitness rooms which could be considered recreational facilities. Among the six organizations we surveyed only Agriculture did not have either a gymnasium or a physical fitness room. These facilities have generally been justified as being necessary for employees to maintain a level of physical fitness required to perform their official duties. Perhaps the most elaborate of these programs is the one of the FBI which provides a large gymnasium, supervised exercise and a variety of specialized equipment. During the planning of their new building they stressed the need to provide for the physical conditioning of their special agent personnel and they were able to justify the use of considerable space and funds for this purpose. Original plans also included an indoor swimming pool but it was later abandoned.

4. With the use of appropriated funds severely limited, most organizations have had to rely on employee associations to provide recreational opportunities and benefits for their employees. In order to develop non-appropriated funds for such activities the associations have engaged in a wide variety of enterprises. Attached is a copy of a 1974 GAO report on space allocations by Federal agencies to employee associations which details some of these activities. At that time there were about 200 employee associations in 32 agencies which reported over \$34 million in annual gross revenues. These associations were viewed as an important means of enhancing the effectiveness of Federal employees. The thrust of the report was, however, that GSA should develop a uniform policy and guidelines since the use of Federal space and services without charge by revenue-producing associations could be regarded as not being in accordance with the intent of Title V of the Independent Offices Appropriation Act. As a result of the report GSA developed draft policies and procedures which required the payment of fair rental value for a majority of non-Federal activities. This caused considerable concern particularly with regard to cafeterias and the whole matter was eventually turned over to OMB. It is not known at this time whether OMB will issue a policy on this matter or what form it might take.

5. In addition to reimbursement for space, employee associations are being required to assume a majority of their personnel costs. The Audit Staff has questioned our assignment of four Staff employees to EAA related functions and OGC has the matter under consideration at this time. Our justification has been based upon security and cover considerations which necessitate careful guidance and control of these activities. We determined that NSA has already been required to change their Civilian Welfare Fund employees from appropriated to non-appropriated funds. The employee

associations of all the organizations we surveyed either pay the salaries of their employees or rely on the volunteer services of Federal employees who perform part-time duties for the association "on their own time." If EAA is required to follow a similar course, there will have to be drastic changes made because the Association does not generate sufficient income to pay the current staff.

6. With increasing limitations being placed on the earning capacity of employee associations through space and personnel costs, it is highly unlikely that the record of the Kennedy Space Center will ever be equalled. The attached GAO report indicates that in the period 1965-1974 their association was able to invest about \$500,000 from net profits in building a recreation complex of 50 acres. They were able to generate over \$50,000 a year in net profits through vending machine and store sales at the Space Center. The principle source of income for our association is the EAA Store. In CY 1975 the Store had a profit of \$16,151 and EAA's total net gain was \$17,262. Since the EAA Budget for 1976 activities amounted to \$17,421, we are essentially in a position at this time of breaking even. It appears likely that EAA will be hard pressed to maintain its current level of activity if it is required to assume the full burden of space and personnel costs. A substantial new source of income will therefore have to be developed if EAA is to undertake the funding of extensive recreational facilities.

7. It is possible that a limited improvement in existing recreational facilities could be financed from available non-appropriated fund assets. EAA now has about \$65,000 that could be used for the benefit of its members, but as noted above, its reserve could quickly disappear if EAA is to bear all EAA personnel costs. The EAA Board has considered the possible uses of these funds but has deferred action pending final resolution of the space and personnel cost issues.

8. Based upon our survey and the information presented above, it is recommended that the following courses of action be considered:

- a. Include provision for a gymnasium, physical fitness room, locker rooms and a swimming pool in plans for any future buildings to be constructed in the Headquarters complex.

- b. Issue a questionnaire to determine the interests of Agency employees in various recreational facilities.

Approved For Release 2003/06/13 : CIA-RDP81-00142R000500030012-4

c. Ask the EAA Board to consider the results of the questionnaire and the most effective and beneficial use of its available resources.

Atts

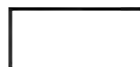
DD/A Registry

76-4771

Recreational Facilities Study

23 SEP 76

F. W. M. Janney
Director of Personnel
5E 58, Headquarters



DD/A Registry
File *Personnel*

STATOTHR

Deputy Director for
Administration
7D 26, Headquarters

27 SEP 1976

STATINTL

Jack:

As we have already reported, we have had discussions with George [redacted] regarding the DDCI's interest in improving recreational facilities. As a first step, we thought we should confirm or put to bed various notions concerning the extent of such facilities elsewhere. All kinds of assertions were being made about what great services other agencies had. You will see from the attached that this is not so, except for the Kennedy Space Center.

STATINTL

STATINTL

We have already shown George [redacted] the attached summary but now want to send it to him officially. The paper has been prepared without an addressee because it is headed to [redacted] for his use in discussing further with DDCI. If you have no problem with the recommendations, please forward. Eventually, we assume we will go ahead with the questionnaire.

(SIGNED) F. W. M. Janney

Distribution:

Orig & 1 - Adse
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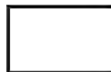
F. W. M. Janney

DD/Pers [redacted]:bkf (22 Sep 76)

STATINTL

23 SEP 76

F. W. M. Jarney
Director of Personnel
5E 58, Headquarters



STATOTHR

Deputy Director for
Administration
7D 26, Headquarters

to 1:

STATINTL

[redacted] met with us and discussed the interest of the DDCI in improving our employee services wherever possible. Specifically, we were asked to undertake a study of recreational facilities of other civilian agencies and the methods by which they were acquired. Attached is a report of the study which was conducted by the Benefits and Services Division.

STATINTL

[redacted]
Assistant to the Deputy Director
of Central Intelligence
7E 12, Headquarters

to 4:

Per our discussion, attached is the recreational facilities study.

Distribution:

- Orig - Adse
- 2 - DDA
- 1 - D/Pers
- 2 - DD/Pers/SP-BSD

STATINTL-OP/BSO/[redacted] jp (21 Sep 76)
Retyped: OD/Pers:bkf (22 Sep 76)

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2. We did not find evidence in any of our discussions of civilian agencies or their employee associations actually providing recreational facilities solely for the relaxation and enjoyment of employees or association members. There were no officers clubs, golf courses, tennis courts or swimming pools operated by these organizations. In most cases provision is made for clubs and teams to be organized and arrangements made for the use of offices for meetings and local community athletic fields, gymnasiums, bowling alleys, etc. for sports activities. The nearest that anyone came to having their own recreational facilities were the extensive plans made at NSA in the early 1970's for a 3 1/2 million dollar building. They were unable to obtain necessary backing from DOD non-appropriated funds and a survey of NSA employees indicated that only 40 were willing to invest \$500 in a share of the facility.

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4. With the use of appropriated funds severely limited, most organizations have had to rely on employee associations to provide recreational opportunities and benefits for their employees. In order to develop non-appropriated funds for such activities the associations have engaged in a wide variety of enterprises. Attached is a copy of a 1974 GAO report on space allocations by Federal agencies to employee associations which details some of these activities. At that time there were about 200 employee associations in 32 agencies which reported over \$34 million in annual gross revenues. These associations were viewed as an important means of enhancing the effectiveness of Federal employees. The thrust of the report was, however, that GSA should develop a uniform policy and guidelines since the use of Federal space and services without charge by revenue-producing associations could be regarded as not being in accordance with the intent of Title V of the Independent Offices Appropriation Act. As a result of the report GSA developed draft policies and procedures which required the payment of fair rental value for a majority of non-Federal activities. This caused considerable concern particularly with regard to cafeterias and the whole matter was eventually turned over to OMB. It is not known at this time whether OMB will issue a policy on this matter or what form it might take.

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associations of all the organizations we surveyed either pay the salaries of their employees or rely on the volunteer services of Federal employees who perform part-time duties for the association "on their own time." If EAA is required to follow a similar course, there will have to be drastic changes made because the Association does not generate sufficient income to pay the current staff.

6. With increasing limitations being placed on the earning capacity of employee associations through space and personnel costs, it is highly unlikely that the record of the Kennedy Space Center will ever be equalled. The attached GAO report indicates that in the period 1965-1974 their association was able to invest about \$500,000 from net profits in building a recreation complex of 50 acres. They were able to generate over \$50,000 a year in net profits through vending machine and store sales at the Space Center. The principle source of income for our association is the EAA Store. In CY 1975 the Store had a profit of \$16,151 and EAA's total net gain was \$17,262. Since the EAA Budget for 1976 activities amounted to \$17,421, we are essentially in a position at this time of breaking even. It appears likely that EAA will be hard pressed to maintain its current level of activity if it is required to assume the full burden of space and personnel costs. A substantial new source of income will therefore have to be developed if EAA is to undertake the funding of extensive recreational facilities.

7. It is possible that a limited improvement in existing recreational facilities could be financed from available non-appropriated fund assets. EAA now has about \$65,000 that could be used for the benefit of its members, but as noted above, its reserve could quickly disappear if EAA is to bear all EAA personnel costs. The EAA Board has considered the possible uses of these funds but has deferred action pending final resolution of the space and personnel cost issues.

8. Based upon our survey and the information presented above, it is recommended that the following courses of action be considered:

- a. Include provision for a gymnasium, physical fitness room, locker rooms and a swimming pool in plans for any future buildings to be constructed in the Headquarters complex.

- b. Issue a questionnaire to determine the interests of Agency employees in various recreational facilities.

c. Ask the EAA Board to consider the results of the questionnaire and the most effective and beneficial use of its available resources.

Atts



LOGISTICS AND COMMUNICATIONS
DIVISION

MAR 15 1974

B-112840

The Honorable Roy L. Ash
Director, Office of Management and Budget

Dear Mr. Ash:

We have examined into the consistency of space allocations by Federal civil agencies to employees associations and the charges made for use of this space and related services in Government facilities. Our survey suggests a need for an overall Government policy that would provide guidance in allocating space and services in Government facilities for use by employees welfare and recreation associations.

Although Federal agencies have generally encouraged the establishment of employees associations, the agencies have not been uniform in providing the associations space and services. Consequently there is wide disparity among the associations and apparent inequities concerning their use of Federal property. The associations' major sources of revenue and major uses of space and services are employee-convenience enterprises which the associations either operate directly or contract to concessionaires for a share of the gross revenue.

There are about 200 employees associations situated in 32 Federal civil agencies throughout the United States which have reported over \$34 million in annual gross revenues from dry cleaning and shoe repair services and such enterprises as cafeterias, transient housing, vending machines, service stations, parking facilities, barbershops, and various shops for sales of stereo and TV equipment, greeting cards, snacks, sundries, and clothing. The number, size, and types of enterprises varied widely among the associations.

The following table shows the wide range in gross revenue reported by these employees associations.

<u>Number o. associations</u>	<u>Annual gross revenue</u>
24	\$50,000 and over
31	\$10,000 to \$49,999
55	\$ 2,000 to \$ 9,999
32	\$ 1,000 to \$ 1,999
54	Less than \$ 1,000

In June 1973 we completed a survey of the use of space by employees associations at four locations--the Departments of State and Agriculture, Washington, D.C.; the National Aeronautics and Space Administration (NASA), Cape Kennedy, Florida; and the Atomic Energy Commission (AEC) Savannah River Plant, Aiken, South Carolina. Revenue-producing activities of the employees associations at these locations included cafeterias, a service station, transient housing, vending machines, barbershops, sundries stores, and automobile parking. Membership benefits also include group insurance, cultural presentations, emergency financial assistance, agency newspapers, automobile parking subsidies, athletic leagues, and health, travel, and recreation programs.

We noted considerable differences in agency practices relative to providing the space and services the associations used. The NASA and the State Department associations used without charge 51,000 and 189,000 square feet of Federal space, respectively, for operation of profitable enterprises which funded morale, welfare, and recreation activities. The AEC association was restricted to fund raising through vending machines and was required to reimburse the agency for the facilities and utilities it used. The Department of Agriculture association used about 1,350 square feet of space but paid for only one-half the space. (See Enc. 1.)

The use of Federal space and services without charge by revenue-producing associations could be regarded as not being in accordance with the intent of title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a) and the Office of Management and Budget (OMB) Circular A-25.

Title V states it to be the sense of the Congress that any benefit of value furnished by any Federal agency to any persons, groups, or associations, except those engaged in the transaction of official business of the Government, shall be self-sustaining to the full extent possible. Further, title V authorizes the heads of Federal agencies to prescribe therefor such fees, charges, or prices, if any, as they shall determine to be fair and equitable taking into consideration cost to the Government, value to the recipient, public policy or interest served, and other pertinent facts.

OMB Circular A-25 provides guidance for developing an equitable and uniform system of user charges for certain Government services and property, but specifically excludes fringe benefits for military personnel and civilian employees which continue to be governed by separate policies. The Department of Defense has established a policy to guide the defense agencies in their treatment of employee welfare and recreation activities, but no overall policy has been established to guide the civil agencies. The Department of Defense's policy endorses the thrust of title V in that morale, welfare, and recreation activities selling goods or services are required to reimburse the Department for services furnished to them.

General Services Administration (GSA) regulations on space management state that there is no specific statutory authority to assign space to Government employees associations, but the GSA regional administrator may issue a permit for an association to use space when he deems the use to be in the Government's interest. GSA officials told us that, to the best of their knowledge, no such permit has ever been requested or issued. They also said that an agency may permit an employees association to use space controlled by the agency without advising GSA of such use.

Public Law 92-313 (known as "Public Buildings Amendments of 1972") directs GSA to charge approximate commercial rates to any agency furnished space and services in GSA-controlled buildings beginning July 1, 1974. The act also authorizes, but does not direct, each executive agency to charge non-Government activities at GSA-approved rates for space and services provided

by the agency. GSA officials have indicated that they will charge each agency for the total space assigned to it, and each agency must administratively determine whether to charge for space and services furnished to its non-Government tenants, including employees associations.

We visited two major banks and a soft drink manufacturer to obtain some understanding of the private sector's thinking on employees associations. Officials expressed the philosophy that company provision of welfare and recreation benefits through their employees associations is a good sound business practice which enhances the effectiveness of their employees. (See Enc. 2.)

The prevalence of employees associations in the Federal civil agencies indicates that the administrators accept the concept of an employees association as good, sound governmental practice. Because there is no basic policy or body of guidelines, such as in the Defense Department, the implementation of the concept must be as varied as the outlooks of the administrators and be shaped by their interpretations of the various relevant regulations and statutes.

Employees association activities on Federal property are significant in size and are important as a means of enhancing the effectiveness of Federal employees. We believe it is necessary that those activities be treated equitably concerning the assignment and use of Federal space. We also believe that the thrust of title V of the Independent Offices Appropriation Act of 1952 should be observed in regard to those associations which are capable of self-sufficiency. Without Government-wide guidance we believe that the lack of uniformity among Federal agencies in providing space and services to employees welfare and recreation associations will continue.

We discussed the results of our work with officials of your Office and of AEC, NASA, the Departments of Agriculture and State, and GSA. These officials generally agreed with our findings and conclusions.

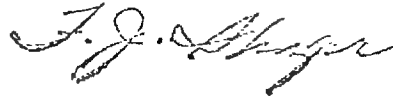
Accordingly, we recommend that you, in conjunction with GSA, formulate

--a policy which will provide for equitable assignment and use of Federal space by employees associations and

--guidelines for determining fair and equitable charges, if any, for space and services furnished by the Government to such associations.

Copies of this report are being sent to the House and Senate Committees on Appropriations, Government Operations, and Post Office and Civil Service and to the agencies mentioned above.

Sincerely yours,



F. J. Shafer
Director

Enclosures - 2

DESCRIPTIONS OF EMPLOYEES
ASSOCIATIONS IN AGENCIES VISITED

National Aeronautics and Space Administration
Kennedy Space Center, Florida

At the Kennedy Space Center the employees association--which serves about 15,000 employees--operates the following revenue-producing activities: (1) cafeteria, (2) vending machines, (3) service station, (4) barbershop, and (5) sundries store. The association's fiscal year 1972 gross income was about \$225,000. The net income was \$56,000, of which \$39,000 came from vending machines. The association's activities occupy about 51,000 square feet of Federal space on a rent-free basis. Annually they use utilities costing about \$50,000, of which about \$2,100 is reimbursed to the Government.

The biggest single user of space and utilities is the cafeteria operation which occupies about 37,000 square feet and uses utilities costing about \$43,000. Neither the Federal Government nor the association received any reimbursement or income from the cafeteria concessionaire because there were not enough profits to require reimbursement under the agreement.

NASA has assigned to the association at no charge some 230 acres of Federal land to be used for recreation purposes. Since 1965 the association has invested about \$500,000 from the net profits in building a recreation complex on 50 acres; this complex is not open to the general public.

Atomic Energy Commission, Savannah
River Plant, Aiken, South Carolina

E. I. DuPont de Nemours and Company operates the Savannah River Plant for AEC on a cost-reimbursable basis. AEC maintains an administrative staff at the plant; DuPont provides the management and operations work force. Separate employees associations serve AEC and DuPont employees.

DuPont's employees association--which has about 2,000 members who each pay a dollar for annual dues--occupies no Federal space, has no revenue-producing activities, and is funded by DuPont as necessary. The association, however, is

regarded as a fringe benefit and a cost of operating the plant. Therefore, the Government indirectly funds the DuPont employees association through cost reimbursements to the contractor. The association's budget for 1973 was about \$19,500 and activities planned for 1973 included bingo games, sports tournaments, monthly fishing contests, an antique car show, concerts, dances, an amusement park excursion, a bowling league, and miscellaneous activities.

The AEC employees association--which has 164 members who each pay a dollar for annual dues--receives commissions from 15 vending machines. The association pays the Government \$108 a year for the use of Government facilities and services, whereas the utilities used by the association cost the Government only about \$25 per year. The association operates under a \$2,000 annual funding limitation, and receipts exceeding the \$2,000 ceiling must be turned over to DuPont to reduce its operating costs. Benefits provided to association members include a spring dance, a Christmas dance, bingo, golf tournaments, picnics, and a bowling party.

Department of State, New State
Building, Washington, D.C.

The Department of State employees association--which has 16,500 members who each pay \$3.50 for annual dues--operates the following revenue-producing activities: (1) barbershop, (2) valet shop, (3) two retail stores, (4) transient housing rentals, and (5) parking lot. The association's net income for 1972 was about \$224,000. The association's revenue-producing activities occupy about 189,000 square feet of Federal space, including a basement parking garage containing 181,000 square feet. The association charges members a modest parking fee but does not pay the Department of State for the space. The association pays GSA \$4,000 a year for 1,440 square feet of space and related services for the barber and valet shops. In addition to the space for revenue-producing activities, the association also occupies office space and a physical fitness room. Benefits provided by the association to its members include parking subsidies, physical fitness program, organized sports activities, and a cultural events program.

Department of Agriculture, South
Building, Washington, D.C.

The Department of Agriculture employees association includes about 82,000 employees on a nondues basis. In 1972 the association operated the following revenue-producing activities: (1) three cafeterias, (2) candy and tobacco sales, (3) merchandise and film sales, (4) barbershop, and (5) parking lot. The association reported gross revenue of \$1,175,000 and a net loss of \$83,000 for the year ended December 31, 1972. (All figures rounded.)

The parking lot was leased for \$115,000 and rented to employees at a profit of \$7,000. The barbershop occupied 680 square feet of Federal space; the association paid GSA \$936 for this space and utilities. After additional expenses of depreciation and telephone, the association's net income on the barbershop was \$800. The merchandise, film, and sundries sales used 660 square feet of Federal space for which there was no charge but lost \$21,000. Government Services, Incorporated, and other concerns took over the cafeterias and the candy and tobacco sales from the association in mid-1972. For the 7 months under the association, the cafeterias had a loss of \$68,000, and the candy and tobacco sales had a profit of \$13,000. (All figures rounded.)

Benefits sponsored by the association include a free employee newspaper, emergency loans, insurance plans, garden club, Spanish club, organized sports activities, and discounts on parking rates, merchandise, film, and prescriptions. A travel club which occupies 120 square feet of space without charge was formerly a part of the employees association. In 1972 it broke away from the association. The travel club was given free space because it was considered to be in the interest of the Department of Agriculture.

SELECTED EMPLOYEES ASSOCIATIONS IN
THE PRIVATE SECTOR

We interviewed officials of three commercial firms in Atlanta, Georgia, to determine the welfare and recreation benefits they gave their employees and to broaden our background for considering the role of Government employees associations.

Two of the firms are major banks with a combined total of 7,000 employees. One bank fully funds its employees association's annual budget--\$16,000 for 1973. The association provides organized sports leagues and pays for an annual employees outing to a major family amusement park. Apart from the funds provided to the association, the bank also

- budgets by department about \$9 per employee for departmental recreation activities,

- gives employees a 30-percent discount on meals in its cafeteria, and

- gives employees a 20-percent discount on parking in its parking garage.

The second bank funds 50 percent of its employees association's annual budget--about \$27,000--which is distributed for departmental parties. In addition, the bank spends more than \$200,000 annually to operate a lake resort and recreation complex which association members and their families may use for a nominal fee. This resort is also the site for an annual outing for employees paid for by the bank. Apart from these activities, the bank gives employees a 20-percent discount on meals in its cafeteria and a 35-percent discount on parking.

The third commercial firm is an internationally known soft drink manufacturer with over 30,000 employees, of which 1,700 are in its Atlanta offices. The Atlanta employees have an employees association which the company fully funds. The annual funding requirement is about \$30,000, of which about \$15,000 is spent for an employee outing to a major family amusement park near Atlanta. The remainder of the budget is used to fund organized sports leagues and other miscellaneous activities. Apart from association activities

the company provides free parking for all employees and subsidizes half the cost of meals for employees.

The management philosophy as expressed by officials of all three firms is that providing welfare and recreation benefits to employees is a good, sound business practice because such benefits promote high morale and esprit de corps which enhance the effectiveness of employees.

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ROUTING AND RECORD SHEET

SUBJECT: (Optional) Recreational Facilities Study			DD/A Registry 76-4771	
FROM: F. W. M. Janney Director of Personnel 5E 58, Headquarters		EXTENSION <input type="checkbox"/>	NO. PERS 76-2803 DATE 23 SEP 1976	
TO: (Officer designation, room number, and building) 5E-DDA		DATE 25 SEP 1976	OFFICER'S INITIALS	COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.) Jack: As we have already reported, we have had discussions with George [redacted] regarding the DDCI's interest in improving recreational facilities. As a first step, we thought we should confirm or put to bed various notions concerning the extent of such facilities elsewhere. All kinds of assertions were being made about what great services other agencies had. You will see from the attached that this is not so, except for the Kennedy Space Center. We have already shown George [redacted] the attached summary but now want to send it to him officially. The paper has been prepared without an addressee because it is headed to [redacted] for his use in discussing further with DDCI. If you have no problem with the recommendations, please forward. Eventually, we assume we will go ahead with the questionnaire. [redacted] F. W. M. Janney
1. A Deputy Director for Administration 7D 26, Headquarters	25 SEP 1976			
2. DDA	27 SEP 1976			
3. ILLEGIB [redacted]				
4. [redacted]				
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Approved For Release 2003/06/13 : CIA-RDP81-00142R000500030012-4

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OFFICIAL ROUTING SLIP					
TO	NAME AND ADDRESS		DATE	INITIALS	
1	DDA		6 OCT 1971		
2					
3	D/PERS cy sent				
4					
5	D/LOG cy sent				
6					
ACTION		DIRECT REPLY		PREPARE REPLY	
APPROVAL		DISPATCH		RECOMMENDATION	
COMMENT		FILE		RETURN	
CONCURRENCE		INFORMATION		SIGNATURE	
Remarks: Please note DDCI approval on attached cover sheet.					
FOLD HERE TO RETURN TO SENDER					
FROM: NAME, ADDRESS AND PHONE NO.				DATE	
A/DDCI				5/Oct	
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Approved For Release 2003/06/13 : CIA-RDP81-00142R000500030012-4

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Executive Registry

76-3242/6

FROM:

F. W. M. Janney
Director of Personnel
5E 58, Headquarters

EXTENSION

NO.

DD/A Registry

DATE

28 SEP 1976

76-4771

TO: (Officer designation, room number, and building)

DATE

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

1. Deputy Director for
Administration
7D 26, Headquarters

27 SEP 1976

STATINTL

2.

3.

STATINTL

Assistant to the Deputy Director
of Central Intelligence

5. 7E 12, Headquarters

to 1:

[redacted] met with us and discussed the interest of the DDCI in improving our employee services wherever possible. Specifically, we were asked to undertake a study of recreational facilities of other civilian agencies and the methods by which they were acquired. Attached is a report of the study which was conducted by the Benefits and Services Division.

to 4:

Per our discussion, attached is the recreational facilities study.

Executive Registry

76-3242/3

The recommendation in para. 8, of the attached memo, is approved.

STATINTL

DDCI

10/4/76

7.

8.

DDCI

10/4 HLR

9.

10.

10/5 JWC

11.

12.

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14.

STATINTL

TRANSMITTAL SLIP		DATE 21 October 1976
TO: DDA Executive Officer		
ROOM NO. 7 D 18	BUILDING Hqs	
REMARKS:		
<p style="text-align: right;">21 OCT 1976 22 OCT 1976</p> <p style="text-align: center;">A DDA <u> </u> DDA <u> </u></p> <p style="text-align: center;">Questionnaire does not include "more stools at the bar?"</p> <p style="text-align: center;"><i>I think the legal opinion is wrong.</i></p>		
FROM: C/BSL/OP		
ROOM NO. 5 E 56	BUILDING Hqs	
<p>FORM NO. 241 1 FEB 55</p> <p>REPLACES FORM 36-8 WHICH MAY BE USED.</p> <p style="text-align: right;">(47)</p>		

STATOTHR